IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9015 OF 2004

Vasudev Ramswami Kankuntla .. Petitioner

Versus

Tahsildar, South Solapur & Ors. .. Respondents

Mr.I.M.Khairadi for petitioner

Mr.R.M.Patne, A.G.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 19th January 2006.

P.C.

. By this petition under Article 227 of the Constitution of India, petitioner challenges the

order passed by Additional Commissioner, Pune in revision application R.T.S.No.80 of 2001 dated 29th September 2001 and the order dated 18th January 1999 passed by the S.D.O. Solapur Division.

2. Grievance of petitioner is that the powers under Section 258 of the Maharashtra Land Revenue Code have been exercised to nullify effect of N.A. permission granted as early as in 1988 and to be precise on 11th May 1988, ignoring the mandate of section 258(1)(iv) of the Land Revenue Code, 1966.

3. Learned Counsel appearing for petitioner submits that power could not have been exercised in 1998 to nullify the effect of the permission granted in the year 1988 and there is no explanation as to why the power is exercised at the instance of complainant (respondent No.3).

4. With the assistance of learned Counsel for petitioner, I have perused the order at Annexure "B" to the petition. It does not appear that the plea of limitation was raised. That apart, the S.D.O. has found after scrutinising the materials produced that the N.A. permission itself is bogus and vitiated. Application for allowing non agricultural user made on 5th February 1988 was accompanied by documents but they could not be traced in the records of concerned department. None of the documents produced could be traced from the file. The entire permission was thus obtained by producing documents which were not genuine. This order is confirmed by the Additional Commissioner, who in turn has directed that disciplinary proceedings be initiated against the officers who are party to the order permitting non agriculture user.

5. In the absence of any prejudice and more so, in the absence of any particulars to

demonstrate that the contention as raised before me was urged before the authorities below, in my view, it would not be proper to entertain the objection of limitation for the first time before this Court. Even otherwise, finding of facts by the authorities are based upon the specific pleas with regard to absence of relevant documents in the file. The entire permission being tainted and vitiated, the same was rightly cancelled. Petition is devoid of any merits and dismissed accordingly.

(S.C.DHARMADHIKARI, J)